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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,572	10/11/2005	Angela Speith-Herfurth	05581-00142-US	4767
23416	7590	05/29/2009	EXAMINER	
CONNOLLY BOVE LODGE & HUTZ, LLP			JACKSON, MONIQUE R	
P O BOX 2207			ART UNIT	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/552,572	SPEITH-HERFURTH ET AL.
	<b>Examiner</b> Monique R. Jackson	<b>Art Unit</b> 1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

1) Responsive to communication(s) filed on 16 February 2009.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

4) Claim(s) 1-18 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-18 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

### **DETAILED ACTION**

1. The amendment filed 2/16/09 has been entered. Claims 1-18 are pending in the application. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

#### ***Claim Rejections - 35 USC § 103***

2. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Murschall et al (USPN 5,436,041) for the reasons recited in the prior office action and restated below, wherein it is further noted that Murschall et al teach that the biaxially oriented film can be laminated to other films or substrates in the production of laminates with one or more of paper, card, metals, plastic films or metallized plastic films, and though Murschall et al do not specifically teach that the lamination method utilizes a pressure sensitive or cold sealing adhesive layer as claimed, one having ordinary skill in the art at the time of the invention would have been motivated to utilize any conventional lamination method including cold lamination with known adhesives such as pressure sensitive or cold sealing adhesives which are conventional and obvious in the art, to laminate any of the substrates taught by Murschall et al to either or both surfaces of the film taught by Murschall et al to produce a desired laminate for a particular end use.

Murschall et al teach a transparent, printable, biaxially orientated polyolefin multilayer film which can be sealed on both sides, having a base layer B and different top layers A and C located on both sides thereof; wherein the base layer B contains a peroxidically degraded polypropylene polymer, having a melting point in the range of 160°C to about 170°C, preferably an isotactic polypropylene; wherein the film has a low sealing temperature on one side and customary sealing temperature on the other (Abstract; Col. 3, lines 46-60; Col. 10-Col. 11, line

18; Examples.) Murschall et al teach that the top layer A contains a polymer mixture of two or more of the olefin co- and/or terpolymers as recited in Col. 4; including propylene polymers having a propylene content within the claimed range, a high-viscosity polydiorganosiloxane such as polydialkylsiloxanes and silicon dioxide and, if appropriate, other added additives; wherein the polydiorganosiloxane has a viscosity of greater than about 50,000mm<sup>2</sup>/s, preferably between about 100,000 and about 1,000,000mm<sup>2</sup>/s, at 25°C, and in generally added in an amount of about 1.0 to about 4.0% by weight, based on the top layer A (Abstract; Col. 5, line 45-59.) Top layer C contains an olefin copolymer or terpolymer as described in Col. 6, including propylene polymers having a propylene content within the claimed range, and preferably as an additive, an antiblocking agent in an antiblocking effective amount, generally about 0.1 to about 1.0% by weight; wherein the outer surface of top layer C is corona treated or flame treated and comprises a non-cohesive covering of polydialkylsiloxane (Abstract; Col. 6-Col. 7, line 25; Col. 10, lines 5-10.) Murschall et al also teach that the base layer B, as well as the top layers, may further include additives including antistatics, antiblocking agents, lubricants such as polydimethylsiloxanes, stabilizers, neutralizing agents, and/or low molecular weight hydrocarbon resins such as petroleum resins, styrene resins, cyclopentadiene resins and terpene resins having a softening point of about 60 to about 180°C, preferably about 80 to about 150°C, and added in an amount of about 3 to about 15% by weight based on the layer (Col. 4, line 36-41; Col. 7, line 57-Col. 9, line 12.) Murschall et al teach that the antistatic agents include tertiary aliphatic amines (Col. 8, lines 3-14.) Murschall et al do not specifically teach that the film further comprises a cold sealing adhesive coating and opposite release layer as instantly claimed, however, it is well established in the art that packaging films can be provided with cold sealing

coatings to allow the BOPP packaging film to be sealed at room temperature, particularly for sensitive products, as evidenced by the prior art (Page 1 of the specification) and further that an outer layer is provided with antiblocking or release properties to allow the packaging film to be easily wound and unwound, and hence would have been obvious to one having ordinary skill in the art at the time of the invention, wherein any conventional method of coating would have been obvious including printing such as gravure printing.

3. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Speith-Herfurth et al (USPN 6,811,886.) Speith-Herfurth et al teach a transparent, multi-layer, sealable, biaxially oriented polypropylene film having improved barrier properties which is constructed of a base layer B of preferably isotactic polypropylene having a melting point of 140 to 170°C, preferably 150 to 165°C; at least one sealable covering layer D via an intermediate layer Z, on one or both surfaces of the base layer; wherein the base layer may comprise conventional additives including neutralizers, stabilizers, antistatics, and hydrocarbon resins, particularly the hydrocarbon resins as claimed, in an amount from 1 to 20% by weight, based on the weight of the base layer (Abstract; Col. 2, line 13-Col. 4, line 41.) The interlayer can be formed from olefin polymers as recited in Col. 5-6, including propylene polymers as claimed, and may further include additives such as lubricants like polydialkylsiloxanes or other silicone oils having a viscosity of from 500 to 1,000,000 mm<sup>2</sup>/s (Col. 5, line 50-Col. 30.) Speith-Herfurth et al further teach top layers applied to both sides, comprising olefin polymers as recited in Col. 8-9; and may further comprise various additives including stabilizers, neutralizers, antistatics such as aliphatic tertiary amines, and preferably include antiblocking agents in an amount of 0.01 to 2% by weight (Col. 3; Col. 8-Col. 10, line 9.) Speith-Herfurth et al further teach that one or both surfaces can

be corona or flame treated (Col. 10, lines 57-61.) Speith-Herfurth do not specifically teach that the sealable covering layers are cold sealing layers or further comprise a cold sealing adhesive coating and opposite release layer as instantly claimed, however, it is well established in the art that packaging films can be provided with cold sealing coatings to allow the BOPP packaging film to be sealed at room temperature, particularly for sensitive products, as evidenced by the prior art (Page 1 of the specification) and further that an outer layer is provided with antiblocking or release properties to allow the packaging film to be easily wound and unwound, and hence would have been obvious to one having ordinary skill in the art at the time of the invention, wherein any conventional method of coating would have been obvious including printing such as gravure printing.

4. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cretekos et al (USPN 6,087,015.) Cretekos et al teach a coextruded, biaxially oriented polypropylene film comprising a polypropylene core layer, and a matte surface layer comprising a blend of propylene polymers with 0.05 to about 10 weight percent of a polydialkylsiloxane having a viscosity of above about 10,000,000 cSt; (Abstract; Col. 4, line 23-Col. 5, line 13.) Cretekos et al teach that the film may comprise an additional surface layer on the core layer opposite to the matte surface layer, formed from various olefin polymers including propylene polymers as claimed (Col. 5, lines 18-43.) Additives may be further incorporated into the film such as antiblocking agents in an amount from 0.1wt% to about 3wt% of the layer, slip agents, antistatic agents such as tertiary amines, and hydrocarbon resins such as petroleum resins, styrene resins, cyclopentadiene resins and terpene resins (Col. 5, lines 44-Col. 6, line 36.) Cretekos et al teach that the films can be further printed by printing methods including gravure printing, and that

optionally one or both of the external surfaces are coated and/or flame treated or corona treated before winding (Col. 6, lines 51-53; Col. 7, lines 1-10.) Though Cretekos et al teach that the external surfaces may be treated and coated, Cretekos et al do not specifically teach a cold seal coating or release layer as instantly claimed, however, it is well established in the art that packaging films can be provided with cold sealing coatings to allow the BOPP packaging film to be sealed at room temperature, particularly for sensitive products, as evidenced by the prior art (Page 1 of the specification) and further that an outer layer is provided with antiblocking or release properties to allow the packaging film to be easily wound and unwound, and hence would have been obvious to one having ordinary skill in the art at the time of the invention, wherein any conventional method of coating would have been obvious including printing such as gravure printing as already disclosed by Cretekos et al. With respect to the polypropylene base layer, though Cretekos et al do not specifically teach that the propylene homopolymer in the base layer is an isotactic polypropylene with a melting point as instantly claimed, it is well established in the art that typical propylene polymers utilized in similar BOPP films are preferably isotactic PP having the claimed properties. With respect to the hydrocarbon resin, though Cretekos et al teach hydrocarbon resins as instantly claimed, Cretekos et al do not specifically teach the content or the softening temperature, However, one having ordinary skill in the art would have been motivated to determine the desired amount of hydrocarbon resin to provide the desired properties to the film wherein typical amounts are within the claimed range, and further, conventional hydrocarbon resins utilized in similar BOPP film have a softening temperature as claimed. Lastly, though Cretekos et al teach that the layers of the film may further comprise various additives, Cretekos et al do not specifically teach stabilizers and neutralizers, however, both of

these additives are conventional additives utilized in the art and would have been obvious to one having ordinary skill in the art at the time of the invention.

*Response to Arguments*

5. Applicant's arguments filed 2/16/09 have been fully considered but they are not persuasive. The Applicant argues that the references are silent with respect to any cold seal layer and that though it might have been state of the art to use cold seal layers in general, such knowledge does not suggest providing a cold seal adhesive onto a top layer containing a release agent such as polydialkylsiloxane as claimed. However, the Examiner respectfully disagrees and notes that the Applicant has not provided any arguments to rebut the Examiner's position with respect to each reference and further has not provided any showing of unexpected results to overcome the obviousness rejections. The Applicant's arguments with respect to the base layer modified with a hard resin and a silicon oil with the claimed viscosity are not persuasive considering the references all teach these features. Considering the claims do not require any level of adhesion between the cold seal layer and the cover layer, the Applicant's arguments with respect to polysiloxanes being a release agent or that the claimed base film "may...still be coated with a cold seal layer" are not persuasive. In terms of the Applicant's arguments that the outer layer comprising the polysiloxanes as taught by the prior art may provide a release surface or release properties, the Examiner notes that if such properties were in fact present by the teachings of the prior art, one skilled in the art at the time of the invention would have been further motivated to utilize the films as release film for pressure sensitive adhesives (PSA) or removable laminates or labels with outer PSA layers. Hence, the Examiner maintains her

position that the instant invention would have been obvious over the teachings of the prior art as discussed above.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R. Jackson whose telephone number is 571-272-1508. The examiner can normally be reached on Mondays-Thursdays, 10:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on 571-272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Monique R Jackson/  
Primary Examiner, Art Unit 1794  
May 26, 2009